

**LOCAL LAW NO. \_\_ OF 2021**  
**TO ADOPT ZONING REQUIREMENTS FOR TOBACCO RETAIL DEALERS AND**  
**VAPOR PRODUCTS DEALERS**

Be it enacted by the Town Board of the Town of Irondequoit as follows:

**Section 1. AMENDMENT TO CHAPTER 235.** Chapter 235, Zoning, of the Code of the Town of Irondequoit, is hereby amended to add a new Article, Article XXVII, as follows:

ARTICLE XXVII. TOBACCO RETAIL DEALERS AND VAPOR PRODUCTS DEALERS

Section 235-177. Legislative Purpose, Intent, and Findings.

The Town Board of the Town of Irondequoit hereby intends to limit the sale of tobacco and vapor products on a going-forward basis to only those zoning districts allowing retail establishments or retail stores and shops, and to further limit the concentration of Tobacco Retail Dealers and Vapor Products Dealers within those zoning districts.

This act further the goals of New York State’s tobacco use prevention and control program, as identified in New York State Public Health Law § 1399-ii. The Town Board finds that: (a) tobacco is a leading cause of preventable death and disease in New York State; (b) adolescent brains are uniquely vulnerable to the effects of nicotine and the formation of nicotine dependence; (c), tobacco and vapor retail outlet density is associated with high rates of youth and adult tobacco use, as well as higher rates of initiation of nicotine use among adolescents and young adults; (d) tobacco and vapor products usage is linked to an increased incident in cancers and disease and therefore is harmful to the public health, and (d) restricting the sale of tobacco and vapor products to certain zoning districts and reducing the concentration of sale locations will reduce the availability of tobacco and nicotine to Town residents, including adolescents, improving public health and lessening the incidence of various cancers and diseases.

Section 235-178. Definitions.

When used in this Article, unless otherwise expressly stated or unless the context or subject matter otherwise requires, the following words shall have the meanings therein:

TOBACCO PRODUCTS means one or more cigarettes or cigars, bidis, chewing tobacco, powdered tobacco, nicotine water or any other tobacco products.

TOBACCO RETAIL DEALER means a person licensed by the New York Commissioner of Taxation and Finance to sell cigarettes or tobacco products in New York State.

VAPOR PRODUCT means any noncombustible liquid or gel, regardless of the presence of nicotine therein, that is manufactured into a finished product for use in an electronic cigarette, including any device that contains such noncombustible liquid or gel. “Vapor product” shall not include any device, or any component thereof, that does not contain such

noncombustible liquid or gel, or any product approved by the United States food and drug administration as a drug or medical device, or manufactured and dispensed pursuant to title five-A of article thirty-three of this the New York Public Health Law.

VAPOR PRODUCTS DEALER means a person licensed by the New York Commissioner of Taxation and Finance to sell Vapor Products in New York State.

#### Section 235-179. Regulation of Tobacco Retail Dealers and Vapor Products Dealers.

(A) Notwithstanding any provision of the Code of the Town of Irondequoit to the contrary, Tobacco Retail Dealers or Vapor Products Dealers shall be a permitted use in, and only in, any zoning district of Chapter 235 of the Code of the Town of Irondequoit that allows retail establishments or retail stores and shops, not including home occupations, provided that:

(1) any part of the property line of the Tobacco Retail Dealer or Vapor Products Dealer business is not located within 1,000 feet from the nearest point of the property line of a school, playground or Child-Care Facility; and

(2) any part of the property line of the Tobacco Retail Dealer or Vapor Products Dealer business is not located within 750 feet from the nearest public entrance of one or more existing licensed Tobacco Retail Dealer or Vapor Products Dealer.

(B) Where the use in a zoning district for retail establishments or retail stores and shops would require the approval of a site plan by the Planning Board, the consent by the Board of Appeals, a Special Use Permit, or any other approval, such requirement or requirements shall also apply to Tobacco Retail Dealers or Vapor Products Dealers.

#### Section 235-180. Prospective Applicability.

The Town Board intends that this Article shall apply on a prospective basis only, and the provisions of this Act shall not apply in the following non-exclusive circumstances:

(A) Any Tobacco Retail Dealer or Vapor Products Dealer licensed by the Commissioner of Taxation and Finance prior to the enactment of this Article.

(B) Any Tobacco Retail Dealer or agent thereof or Vapor Products Dealer or agent thereof, that has applied for a building permit with the Town of Irondequoit pursuant to Article XVII of Chapter 235 of the Irondequoit Town Code prior to the enactment of this Article.

(C) Any Tobacco Retail Dealer or agent thereof or Vapor Products Dealer or agent thereof that has submitted an application for site plan review with the Town of Irondequoit Planning Board pursuant to Article XV of Chapter 235 of the Irondequoit Town Code prior to the enactment of this Article.

(D) Any Tobacco Retail Dealer or agent thereof or Vapor Products Dealer or agent thereof that has made an application for a variance with the Zoning Board of Appeals of the Town

of Irondequoit pursuant to Article XVIII of Chapter 235 of the Irondequoit Town Code, prior to the enactment of this Article.

(E) Any Tobacco Retail Dealer or agent thereof or Vapor Products Dealer or agent thereof that has made an application to the Town Board to amend the Zoning Map of the Town of Irondequoit, pursuant to Section 264 of the New York State Town Law, to a district where the sale of tobacco and vapor are permitted pursuant to Section 3 of this Act, prior to the enactment of this Article.

**Section 2. Severability.**

The provisions of this act are declared to be severable, and if a section of this act is held to be invalid, the invalidity shall not affect the other provisions of this act that can be given effect without the invalidated provision.

**Section 3. Effective Date.**

This act shall take effect upon its filing with the Secretary of State as required by § 27 of the Municipal Home Rule Law.